C.F. 1001 SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition NO 2790 /2006

PETITIONER : Munna Lal Nishad
Aged about 41 years
S/o. Mahesh Ram Nishad
R/o. Chantidih, Opposite Government School, Tahsil and District Bilaspur (C.G.)

P.R. No. 2861/06
Presented in M.L. Section
dated 14/6/06

VERSUS

RESPONDENTS :
1. State Bank of India
Through - Deputy General Manager
Zonal Office Bairan Bazar, Raipur (C.G.)
2. Assistant General Manager
State Bank of India, Region II
Nehru Chowk, Bilaspur (C.G.)
3. Branch Manager
State Bank of India Bankimongra,
District Korba (C.G.)

WRIT PETITION U/A 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..WPRO..2790../06 **सन् 200**

(42)

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15.6.2006:- Shri M.L. Pastore, counsel for the petitioner. By this writ petition under Article 226/227 of the Constitution of India the petitioner has questioned the order dated 30th January 2004 passed by the Assistant General Manager, respondent No.2 and the order dated 21-4-2005 passed by the Branch Manager, respondent No.3 whereby the petitioner has been removed from the service. The case of the petitioner is that after passing 8th Class he was appointed as messenger cum farrash in the State Bank of India, Korba Branch on 30-7-87. As he fell seriously ill, therefore, he remained absent from the duties for 166 days in between 3-6-2002 to 17-1-2003 and he had not attended the office. The petitioner used to submit leave applications along with medical certificates for the period of his absence but same were not considered by the respondents. During the enquiry proceeding also the petitioner pleaded that due to serious illness he was not able to perform the duties, therefore, he submitted an application supported by the medical certificate, but the disciplinary authority did not consider his plea favourably and issued show cause notice. The ground for absence was genuine. The petitioner preferred an appeal against the removal order dated 30-1-2004 before the disciplinary authority, respondent No.1 herein, but the appeal has been dismissed. I have heard learned counsel for the petitioner. Learned counsel for the petitioner argued that the petitioner was not able to remain present on duty on account of illness and for that purpose he submitted medical certificates but those medical certificates were not considered.	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Perusal of charge sheet Annexure-P/3 shows that first charge against the petitioner was unauthorized absence of 166 days ranging between 3-6-2002 to 17-1-2003 and other charge was that on earlier two occasions he remained unauthorizedly absent for a period of 443 and 165 days and for that purpose he was already punished.

From perusal of the appellate order Annexure-P/7, it shows that the petitioner was served with charge sheet on 11-3-2003 but he did not prefer to file reply of the charge sheet. The enquiry officer enquired into the article of charges and he reached to the conclusion that the charges are established. He submitted his report on 11-9-2003 and the disciplinary authority issued notice on 30th September 2003 to the petitioner with a copy of the report of the enquiry officer, but the petitioner again did not prefer to file reply of the same. Again show cause notice was issued on 5-12-2003 but reply of the same was not filed. He was given opportunity of personal hearing but he did not utilize that, therefore, the disciplinary authority passed the penalty of removal from service vide order dated 30-1-2004, against which the petitioner preferred an appeal and same was rejected by the appellate authority vide order dated 21-4-2005.

Perusal of the documents submitted by the petitioner along with this petition shows that the petitioner remained unauthorizedly absent for 166 days, therefore, charge sheet was issued to him and Enquiry Officer was appointed but he did not file any reply of the charge sheet. Even he did not file reply against the report of the Enquiry Officer, which was served upon the petitioner. The relevant papers show that the petitioner was not able to show to the Enquiry Officer that his absence from the duty for 166 days was not unauthorized. He did not produce any evidence to

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

show that on account of illness he was not able to present on the duty. The papers also show that on earlier occasions also the petitioner remained unauthorizedly absent from the duty for a period of 443 days and second time 165 days and for that purpose he was already punished. Therefore, the petitioner was habitual absconder from the duty.

In the above circumstances, the petitioner has not been able to make out a case for judicial review that how the enquiry conducted by enquiry officer and the order of appellate authority is without jurisdiction or contrary to the rules or proper opportunity was not given to the petitioner to defend his case. In the circumstances, I do not find any substance in this petition, same is liable to be dismissed and it is hereby dismissed.

Sd/-
L.C. Bhadoo
Judge

Barve